IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 19999 of 2007(E)

PETITIONER:

V.V.ANILKUMAR,
VELAMPARAMBIL HOUSE,
P.O.,PAZHAYI,(VIA) PUDUKKAD,THRISSUR.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

1. REGIONAL TRANSPORT AUTHORITY,
   THRISSUR.

2. SECRETARY,
   REGIONAL TRANSPORT AUTHORITY,
   THRISSUR.

3. C.D.JOY,CHEMMAYATH HOUSE,
   NEDUMPAL, THOTTIPAL,THRISSUR.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.19999 of 2007

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Dated this the 29th day of June, 2007

J U D G M E N T

The petitioner is an existing operator on the route Thottipal, Mapranam – Nedumpal. The third respondent has applied for a regular permit on the route vellikulangara - Thuruvankadu, which was granted as per Ext.P1 order of the RTA. The petitioner in this writ petition seeks a direction to respondents 1 and 2 to consider Exts.2 and P5 representations filed by him and pass orders cancelling the regular permit granted to the third respondent. Whatever be the prayer made by the petitioner, it is evident that the effect of the same is to challenge Ext.P1. Petitioner's contentions are based on the allegation that since the route is covered by Exts.P3 and P4 notified schemes, the issue of regular permit in favour of the third respondent would offend the said schemes. In *Binu Chacho v. R.T.A. Pathanamthitta* reported in

2006 (2) KLT 172, a Full Bench of this court has laid down that an existing operator cannot challenge grant of new permit to another operator, except in special circumstances. A question arose as to whether such prohibition is only applicable while challenging the grant of permit before the S.T.A.T. and whether the same is applicable to proceedings under Article 226 of the Constitution of India also. A Division Bench of this court, while considering that question in W.A.No.1983/2006 held that it would be applicable to proceedings under Article 226 of the Constitution of India also. In that judgment the Division Bench was dealing with a case filed by an existing operator against grant of permit on the ground that it would offend certain nationalisation schemes. The facts of that case are identical to the facts of this case in so far as the challenge of the petitioner against the grant of permit to the 3rd respondent is also on identical ground. Therefore, the said decision squarely applies to this case.

Accordingly, I dismiss this writ petition holding that the petitioner cannot, as an existing operator, challenge grant of regular permit to the third respondent on the ground that the same would offend Exts.P3 and P4 notified schemes.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.